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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/671,092	09/25/2003	James A. Thomas	D5354	6341
30410	7590	08/02/2004	EXAMINER	
INTERNATIONAL TRUCK INTELLECTUAL PROPERTY COMPANY, 4201 WINFIELD ROAD P.O. BOX 1488 WARRENVILLE, IL 60555			WILLIAMS, THOMAS J	
			ART UNIT	PAPER NUMBER
			3683	

DATE MAILED: 08/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/671,092

Applicant(s)

THOMAS, JAMES A.

Examiner

Thomas J. Williams

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 5-7 is/are allowed.
- 6) ☒ Claim(s) 1-4, 8 and 9 is/are rejected.
- 7) ☒ Claim(s) 10 and 11 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

## DETAILED ACTION

### *Drawings*

1. The drawings were received on April 22, 2004. These drawings are approved.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by US 3,113,433 to Kohlman.

Re-claim 1, Kohlman discloses a hydraulic pump, comprising: a housing 24 having top and bottom surfaces (interpreted as the ends of the pump); first 16a and second 16b cylinders; pistons 34; first 58 and second 60 parallel piston rods; a crank fulcrum 26/28 disposed with respect to the top side; a crank 70 is pivotally mounted on the crank fulcrum, the crank has tines (interpreted as the upwardly extending elements connected to the piston rods) extending away from one side of the crank and attached to free ends of the piston rods; a push rod 74 is attached to an inner arm 62/64 of the crank, the push rod extends downwardly from a point of attachment to the crank above the top side of the housing at a point below the bottom side of the housing; a bottom side fulcrum (interpreted as element 14) positioned with respect to the bottom side of the housing; an actuation lever 13 is pivotally mounted at the bottom side fulcrum and attached to one end to a free end of the push rod.

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Re-claim 2, separate outlets 38 are near the bottom side (see figure 3); a feed reservoir 20 provides working fluid to the cylinders at a point above the outlets.

Re-claim 3, a foot pedal is attached to the push rod.

Re-claim 4, the outlets 38 of the hydraulic pump are connected to first 40 and second 40' brake system pilot circuits.

4. Claims 8 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by US 3,049,885 to Tuten.

Re-claim 8, Tuten discloses a dual circuit pilot master cylinder, comprising: a cylinder housing having top and bottom sides and fittings 64; a pair of cylinders in the cylinder housing, see figure 2, the cylinders are parallel and extend vertically into the cylinder; a pair of pistons; a linkage includes a foot actuated lever 46.

Re-claim 9, the cylinders extend from the adjacent the top side of the cylinder housing into the housing toward the bottom side.

#### *Allowable Subject Matter*

5. Claims 10 and 11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. Claims 5-7 are allowed.

#### *Conclusion*

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hall, Schnell, Huber, Lescaut, Watanabe et al. and Onodera each teach vertically oriented master cylinder pump units.

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8. Any inquiries concerning this communication or earlier communications from the examiner should be directed to Thomas Williams whose telephone number is (703) 305-1346. The examiner can normally be reached on Monday-Thursday from 6:30 AM to 4:00 PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Lavinder, can be reached at (703) 308-3421. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

TJW

July 29, 2004

THOMAS WILLIAMS  
PATENT EXAMINER

Thomas Williams

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7-29-04